

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

2016 JAN -6 AM 9:45

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SO. DIST. OF GA.

UNITED STATES OF AMERICA

vs.

ANTONIO SMILEY

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CR 312-003-5

O R D E R

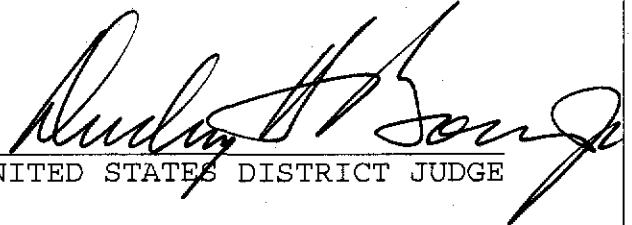
Defendant Antonio Smiley recently filed a motion to reduce his sentence under 18 U.S.C. § 3582(c)(2) on the basis of Amendments 780 and 782 to the United States Sentencing Guidelines as if it is the first time he has sought such relief. In point of fact, Smiley previously filed for this same relief and was denied on January 28, 2015, because he had been sentenced as a career offender. Taking issue with this finding, Smiley filed a motion for reconsideration. The motion for reconsideration was denied on May 4, 2015, and the Court explained to Smiley that the sentence departure he received pursuant to U.S.S.G. § 5K1.1 for his substantial assistance to the Government had no bearing on his classification and sentence as a career offender.

Now, through the present motion, Smiley makes an identical argument that he was not sentenced as a career

offender because his sentence has been reduced under Federal Rule of Criminal Procedure 35. The Court's conclusion is the same however. The Rule 35 reduction does not change that fact that Smiley was sentenced as a career offender and not under a drug quantity table that was subsequently amended. Accordingly, any changes to the drug quantity table pursuant to Amendments 780 and 782 are not applicable to Smiley.

Upon the foregoing, Smiley's present motion to reduce his sentence (doc. no. 876) is **DENIED**.

ORDER ENTERED at Augusta, Georgia, this 6th day of January, 2016.


UNITED STATES DISTRICT JUDGE